

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

No. 6:20-cr-00097

United States of America

v.

Shawn Carl Gaitan

ORDER

Co-defendant Marcelino Berumen (4) filed an unopposed motion to continue the trial. Doc. 110. This motion to continue is **granted**. The new deadlines and court settings for defendant Jesus Salais (3), Marcelino Berumen (4), Shy Anne Rogers (5), John Eric Retiz (6), Dusty Raquel Dudley (7), Christopher Dale Cromwell (8), and Gloria Elizabeth Aguilar (9) are as follows:

- Deadline for pretrial motions (except May 10, 2021 motions for continuance):
- Deadline to file motion for continuance or notify the court of a plea agreement: May 18, 2021 at 12:00 p.m.
- Pretrial conference: June 14, 2021 at 1:30 p.m.
- Jury selection and trial: June 15, 2021 at 9:30 a.m.

A speedy trial is desirable, but “a myopic insistence upon expeditiousness in the face of a justifiable request for delay can render the right to defend with counsel an empty formality.” *Ungar v. Sarafite*, 376 U.S. 575, 589 (1964). Considering the factors listed in 18 U.S.C. § 3161(h)(7), the ends of justice served by this continuance outweigh the interest of the public and the defendant in a speedy trial. In this case, defendant’s counsel reports that additional time is needed “review the

discovery with Defendant who is currently detained in the Gregg County Jail." Doc. 110 at 2. Further, defendant's counsel reports that "discovery materials in this matter are extremely voluminous." *Id.*

Failure to grant a continuance would create an appreciable likelihood of a miscarriage of justice by failing to give Mr. Holt and his appointed attorney enough time to prepare his case. This continuance is necessary to provide defendant's counsel with reasonable time to prepare, considering due diligence. In addition, this case was designated complex and all Speedy Trial Act deadlines were suspended on January 20, 2021. Therefore, the period of delay that will result from this continuance is excludable under the Speedy Trial Act. *See* 18 U.S.C. § 3161(h)(7).

The court notes that defendants Jesus Salais (3), Shy Anne Rogers (5), John Eric Retiz (6), Dusty Raquel Dudley (7), Christopher Dale Cromwell (8), and Gloria Elizabeth Aguilar (9) indicted in the same instrument as Berumen, are also set for trial in this matter for March 8, 2021. The motion reports that counsel for Berumen consulted with the Assistant United States Attorney and counsel for all co-defendants in this case, and the motion is unopposed. Therefore, the court grants the extension request for all jointly indicted co-defendants as well.

So ordered by the court on February 4, 2021.



J. CAMPBELL BARKER
United States District Judge